

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Telecommunications Relay Services and)	CG Docket No. 03-123
Speech-to-Speech Services for Individuals with)	
Hearing and Speech Disabilities)	
)	
Structure and Practices of the Video Relay)	CG Docket No. 10-51
Service Program)	

REPLY COMMENTS OF SPRINT CORPORATION

Sprint Corporation (“Sprint”) hereby files these reply comments in response to the recent Public Notice seeking comment on the compensation rates for various forms of telecommunications relay services (“TRS”) proposed by Rolka Loube Associates LLC (“Rolka Loube”).¹ In particular, Sprint encourages the Federal Communications Commission (“FCC” or “Commission”)² to both ensure that Sprint is compensated for the costs it incurs as the sole remaining provider of IP Relay services and extend the interim \$1.75 compensation rate for IP Captioned Telephone Service (“CTS”) through the 2019-2020 Fund Year.

I. THE COMMISSION MUST ADEQUATELY COMPENSATE SPRINT FOR ITS PROVISION OF IP RELAY SERVICES

The Commission should not adopt Rolka Loube’s proposed IP Relay rate of \$1.6334 per minute because it fails to compensate Sprint, the sole remaining IP Relay service provider, for all

¹ *Rolka Loube Associates Submits Payment Formulas and Funding Requirement for the Interstate Telecommunications Relay Services Fund for the 2019-2020 Fund Year*, CG Docket Nos. 03-123 and 10-51, Public Notice, DA 19-407 (May 13, 2019) (“Public Notice”).

² For purposes of these comments, references to the Commission are meant to encompass both actions taken by the full Commission and actions that the Consumer and Governmental Affairs Bureau may take based on its delegated authority.

costs it incurs in providing IP Relay services.³ Specifically, a rate of \$1.6334 would not compensate Sprint for several reasonable requests it documented and justified in its pending Request for Interim Waivers (“Waiver Request”).⁴ In particular, the proposed rate of \$1.6334 does not include:

- The costs of engaging in outreach to the non-DeafBlind portion of the potential IP Relay user population, which represent approximately \$0.08 on a per-minute basis;⁵
- A modest portion of Sprint’s overhead expenses, which represents approximately \$0.08 on a per-minute basis;⁶ and
- A 12.35% margin on all costs, including the non-DeafBlind outreach and allocated overhead.⁷

Accordingly, in order to ensure that Sprint is adequately remunerated, the Commission should grant the Waiver Request and establish an IP Relay rate of \$1.85 per minute for the 2019-20 Fund Year. Notably, no party has opposed Sprint’s Waiver Request, perhaps because parties recognize the fundamental importance of ensuring that IP Relay continues to be available to those who rely on the service and because Sprint has a history of submitting only reasonable, justifiable costs for compensation. To the contrary, the record reflects substantial support for an IP Relay rate of \$1.85 and highlights the importance of IP Relay service to its user base.⁸ As the

³ Public Notice at 2-3; Rolka Loube Associates LLC, Interstate Telecommunications Relay Services Fund Payment Formula and Fund Size Estimate, CG Docket Nos. 10-51 and 03-123 (May 1, 2019) (“2019 TRS Rate Filing”).

⁴ Sprint Corporation, Request for Interim Waivers, CG Docket Nos. 03-123 and 10-51 (Mar. 21, 2019) (“Waiver Request”); Sprint Corporation, Supplement to Request for Interim Waivers, CG Docket Nos. 03-123 and 10-51 (Apr. 9, 2019) (“Waiver Supplement”).

⁵ See Waiver Request at 4-7; Waiver Supplement at 3.

⁶ See Waiver Request at 7-9; Waiver Supplement at 7.

⁷ See Waiver Request at 13-14; Waiver Supplement at 4-6.

⁸ See, e.g., Comments of Janie Neal, CG Docket Nos. 03-123 and 10-51 (Apr. 19, 2019); Reply Comments of Deaf Seniors of America, CG Docket Nos. 03-123 and 10-51 (Apr. 15, 2019) (supporting Sprint’s Waiver Request); Comments of Lisa Ferris, CG Docket Nos. 03-123

Consumer Groups indicate, the Commission “must grant Sprint’s Waiver in order to maintain viable IP relay service” and fulfill its “responsibilities under the ADA to provide functional equivalent calling services.”⁹

To the extent the FCC deviates from the compensation methodology described in the Waiver Request, the Commission still should be mindful of ensuring that Sprint is compensated for the actual costs of providing IP Relay. For example, if the Commission were to modify its longstanding methodology of setting the IP Relay rate based on an average of two-years’ projected costs and move to a new methodology using “an average of historical and projected costs,”¹⁰ the Commission would need to modify the resulting rate to properly compensate Sprint for a number of costs.

In particular, calculating the IP Relay rate based on the average of the 2018 and 2019 submissions rather than the 2019 and 2020 projections would not include:

and 10-51 (Apr. 8, 2019) (IP Relay “is often the only way [DeafBlind individuals] can make calls,” and these people “need vital services such as Sprint IP Relay to access and have equality [of] services and telecommunications in our society”); Comments of Sarah Goodwin, CG Docket Nos. 03-123 and 10-51 (Apr. 8, 2019) (“We DeafBlind Community rely on the only remaining IP Relay [provider]. . . . Please do NOT take the last remaining IP Relay away from us.”); Comments of Patrick Gary Vellia, CG Docket Nos. 03-123 and 10-51 (Apr. 8, 2019); Comments of Heather Pavey, CG Docket Nos. 03-123 and 10-51 (Apr. 8, 2019); Comments of Mindy Dill, CG Docket Nos. 03-123 and 10-51 (Apr. 8, 2019); Comments of Hannah Furney, CG Docket Nos. 03-123 and 10-51 (Apr. 4, 2019); Comments of John Cunniff, CG Docket Nos. 03-123 and 10-51 (Apr. 4, 2019); Comments of Sally Prouty, CG Docket Nos. 03-123 and 10-51 (Apr. 3, 2019).

⁹ Comments of Telecommunications for the Deaf and Hard of Hearing, National Association of the Deaf, Association of Late-Deafened Adults, Hearing Loss Association of America, Cerebral Palsy and Deaf Organization, and American Association of the DeafBlind, CG Docket Nos. 03-123 and 10-51, at 5-14 (Apr. 8, 2019).

¹⁰ 2019 TRS Rate Filing at 25.

- All DeafBlind Outreach Costs – In late June 2018, the FCC granted Sprint’s request for additional compensation in order to devote more staff to DeafBlind outreach.¹¹ These personnel were not hired until late September 2018. Accordingly, only three months of the associated costs were captured in Sprint’s 2018 actual costs, although Sprint plainly will incur these costs throughout 2019 and 2020. By relying on 2018/2019 costs instead of 2019/2020 costs, therefore, the resulting rate would be approximately \$0.021 per minute below Sprint’s actual costs (before accounting for the appropriate operating margin).
- Non-DeafBlind Outreach Costs – As noted above, Sprint’s Waiver Request seeks compensation for engaging in outreach to the non-DeafBlind portion of the potential IP Relay user population. If the FCC grants this aspect of the Waiver Request, Sprint will incur outreach costs throughout the 2019-20 Fund Year. These costs were not included in Sprint’s 2018 cost filing, however, so relying on an average of the 2018 and 2019 filings would omit half of Sprint’s costs. This translates into a per-minute omission of approximately \$0.02 per minute (before adding an operating margin).
- Costs Associated with Vendor Price Increase – Given ongoing negotiations with its vendor, Sprint included a per-minute cost increase in its 2019 projection. This per-minute cost increase will apply throughout the 2019-20 Fund Year but obviously was not reflected in Sprint’s 2018 filing of actual costs. Accordingly, relying on an average of the 2018 and 2019 filings would understate Sprint’s actual 2019-20 Fund Year costs by approximately \$0.024 per minute (before applying an operating margin).

Put simply, it makes little sense to change the methodology for the *interim* IP Relay rate given that doing so would either (a) lead to inequitable results by failing to appropriately compensate Sprint or (b) add the unnecessary administrative complexity of adding documented costs to the base rate.¹²

¹¹ *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Structure and Practices of the Video Relay Service Program*, Order, 33 FCC Rcd 6300, ¶ 13 (2018).

¹² This new methodology is inappropriate in the single-provider IP Relay context. The concerns that justified its adoption in the multi-provider VRS context do not exist with respect to IP Relay. When this methodology was adopted for VRS, there were multiple provider estimates that varied widely, frequently overstating future costs. For example, in 2010, the Commission found that VRS compensation rates had been *more than two dollars* per minute higher than providers’ actual costs in each year from 2006 through 2009. *See Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Order, 25 FCC Rcd 8689, ¶¶ 9-10 (2010). *See also Structure and Practices of the Video Relay Service Program; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Report and Order and Order, 32 FCC Rcd

II. THE COMMISSION SHOULD NOT FURTHER REDUCE THE IP CTS RATE AT THIS TIME

With respect to IP CTS, Sprint urges the Commission to extend the interim \$1.75 compensation rate through the 2019-20 Fund Year instead of implementing a further reduction of the rate to \$1.58. Notwithstanding the fact that the Commission did not seek comment on the IP CTS compensation rate in the Public Notice,¹³ the record nevertheless reflects widespread concern about the forthcoming rate reduction.

In fact, Sprint's pending Petition for Reconsideration established that both the interim \$1.75 rate in place today and the forthcoming reduction to \$1.58 are arbitrary and inadequate.¹⁴ As detailed therein, the \$1.75 rate is "unlikely to provide Sprint with a reasonable profit that will sustain its operations over a longer term," in large part because it relies on inapt cost data and a flawed methodology that is currently under review by the Commission.¹⁵

5891, ¶ 69 (2017) (noting "a substantial disparity between providers' projected costs and demand and actual costs and demand"); *Structure and Practices of the Video Relay Service Program; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Report and Order and Further Notice of Proposed Rulemaking, 28 FCC Rcd 8618, ¶ 189 (2013) (noting that "prior submissions of projected costs have proven to be higher than actual costs subsequently determined for the Fund year").

By contrast, Sprint's actual costs have been remarkably accurate, literally within a penny of its projections in both 2017 and 2018. Accordingly, there is no basis for changing the current methodology and adopting a new methodology, particularly where, as here, doing so would result in distortions that would fail to compensate Sprint for its accurately projected and known future costs.

¹³ Public Notice at 1-2.

¹⁴ See generally Sprint Corporation, Petition for Reconsideration, CG Docket Nos. 03-123 and 10-51 (July 27, 2018).

¹⁵ *Id.* at 6-10. See also, e.g., Letter from Hamilton Relay, Inc. to Marlene H. Dortch, FCC Secretary, CG Docket Nos. 03-123 and 13-24, at 3-4 (May 24, 2018) ("[a]n arbitrary 10% cut is very difficult for any industry to manage, especially in this situation given the very short nature in which this particular change" has taken place).

The comments in response to the Public Notice demonstrate that these concerns are only magnified in the context of a further reduction to \$1.58. For example, CaptionCall urged the FCC to “revisit the [IP CTS] rate, because it suffers from vulnerabilities and deficiencies that have been explained in the record . . . , yet which the *2019 Report* fails to address.”¹⁶ Hamilton Relay similarly supported freezing the IP CTS compensation rate at \$1.75, noting the arbitrary nature of a further rate cut given that “the Commission has never determined what costs are reasonable or allowable in connection with IP CTS.”¹⁷ Notably, these comments build on the joint request filed by IP CTS providers earlier in the year, which established that the interim \$1.58 rate was the result of arbitrary and capricious decision-making and would result in reduced IP CTS service quality.¹⁸ In turn, the iTRS Advisory Council clarified that pending resolution of whether CaptionCall’s intellectual property costs should be included, “the upcoming 2019 price cap reduction to \$1.58 is below each of the remaining [provider cost filings] that included a margin of 10% and did not allow” for the recovery of additional cost categories.¹⁹ As a result,

¹⁶ Comments of CaptionCall, LLC, CG Docket Nos. 03-123 and 13-24, at 1 (May 28, 2019).

¹⁷ Comments of Hamilton Relay, Inc., CG Docket Nos. 03-123 and 10-51, at 3-5 (May 28, 2019).

¹⁸ Letter from Dixie Ziegler, Vice President of Relay, Hamilton Relay, Inc., Bruce Peterson, Vice President of Government & Community Relations, CaptionCall, LLC, Scott R. Freiermuth, Counsel to Sprint, and Cristina Duarte, Director of Regulatory Affairs, MezmoCorp (dba InnoCaption), to Marlene H. Dortch, FCC Secretary, CG Docket Nos. 03-123 and 13-24, at 2-3 (Feb. 28, 2019).

¹⁹ Letter from Mary Beth O’Hara Osborne, Rolka Loube, and Ron R. Bibler, iTRS Advisory Council, to Marlene H. Dortch, FCC Secretary, CG Docket Nos. 03-123 and 13-24, Second *Ex Parte* Comments of the iTRS Advisory Council (Apr. 23, 2019) (clarifying the iTRS Advisory Council’s previous December 4, 2018 *ex parte* comments).

the “scheduled reduction is unrealistic and could cause Providers to 1) Exit the market and 2) Reduce the quality of service.”²⁰

Perhaps most importantly, the Consumer Groups recommended a continuation of the \$1.75 IP CTS rate, emphasizing the likely adverse impacts that a further rate reduction would have on service quality and robust competition in the delivery of IP CTS services.²¹ Sprint echoes both these concerns and the calls to extend that \$1.75 IP CTS rate for the 2019-20 Fund Year. Allowing the lower \$1.58 rate to go into effect would undermine the purpose of the IP CTS program, delivering functionally equivalent IP CTS services to the individuals who rely on this technology.

²⁰ *Id.*; see also Letter from David W. Rolka, Administrator, TRS Fund, to Marlene H. Dortch, FCC Secretary, CG Docket Nos. 03-123 and 13-24, at 4 (Dec. 4, 2018).

²¹ Letter from Blake Reid, Director, Corian Zacher, Student Attorney, Samuelson-Glushko University of Colorado Boulder Technology, Law & Policy Clinic; Claude Stout, Executive Director, Telecommunications for the Deaf and Hard of Hearing; Barbara Kelley, Executive Director, Lisa Hamlin, Director of Public Policy, Hearing Loss Association of America; Howard Rosenblum, Chief Executive Officer, National Association of the Deaf; and Sheri Farinha, Vice Chairperson, California Coalition of Agencies Serving the Deaf and Hard of Hearing to Marlene H. Dortch, FCC Secretary, CG Docket Nos. 03-123 and 13-24, at 1-2 (March 19, 2019) (highlighting the importance of reimbursing “providers at a rate sufficient to ensure a robust and competitive marketplace of providers that will ensure a high level of service quality for people who rely on captioning when placing important phone calls, including emergency calls”).

III. CONCLUSION

For the foregoing reasons, Sprint urges the Commission to: (1) adopt an interim IP Relay rate of \$1.85 in order to fairly compensate Sprint for its known and documented future costs; and (2) retain the interim \$1.75 IP CTS compensation rate through the 2019-2020 Fund Year, rather than implementing the inadequate and harmful \$1.58 rate.

Respectfully submitted,

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